



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony in SUPPORT of SB 961 SD2, HD1  
RELATING TO MENTAL HEALTH TREATMENT**

REPRESENTATIVE KARL RHOADS, CHAIR  
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: March 24, 2015                      Room Number: 325  
2:00 P.m.

1    **Fiscal Implications:** Indeterminate.

2    **Department Testimony:** The Department of Health (DOH) supports SB 961 SD2, HD1. The  
3    proposed bill, as amended, is likely to improve implementation of Assisted Community  
4    Treatment (ACT).

5            Among other things, the Assisted Community Treatment statute mandates that DOH  
6    gather information from treating providers related to MH-1s and hospitalization of individuals  
7    who are under an order to treat (OTT) and submit an annual report of its findings and  
8    recommendations to the Legislature. Although DOH is mandated to gather information from  
9    treating providers, there is currently no corresponding mandate for treating providers to provide  
10   this information to DOH.

11           DOH offered a proposed amendment to Act 221, Section 21 of the Session Laws of  
12   Hawaii. The proposed amendment has been incorporated into SB 961 SD2. This language will  
13   enhance the ability of the DOH to carry out its mandated responsibility to gather information for  
14   the purpose of providing an annual report to the Legislature. The DOH sought to accomplish a  
15   simple language clean-up that enables the Adult Mental Health Division (AMHD) to obtain

1 information for the annual report. AMHD requested that DOH authority in gathering  
2 information from treating providers be narrowly tailored to the ACT program evaluation rather  
3 than a broader follow-up on treatment delivered to individuals with a court order for ACT and  
4 that information be provided to the DOH or its designee, by September 30th of each year, for the  
5 purposes of compiling the report.

6 Thank you for the opportunity to testify on this measure.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
Members, House Committee on Judiciary

FROM: Scott Morishige, MSW  
Executive Director, PHOCUSED

HEARING: **Tuesday, March 24, 2015 at 2:00 p.m. in Conf. Rm. 325**

**Testimony in Support of SB961 SD2 HD1, Relating to Mental Health Treatment.**

Thank you for the opportunity to provide testimony in **support** of SB961 SD2 HD1, which makes amendments to strengthen Hawaii's Assisted Community Treatment (ACT) law. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including individuals with serious mental illness.

The ACT process is not new, but has rarely been utilized. The changes proposed in this bill were drafted after many discussions with the Family Court and other members of the Legislature's Mental Health Task Force. These changes stem from the experience with the first case that was presented to the Family Court after the ACT law was most recently amended in 2013. This first case highlighted a number of technical difficulties with existing law, which are addressed by the proposed changes in this bill.

Hawaii's mental health system is currently fragmented, confusing, and nearly impossible to navigate. The result of this is that individuals with serious mental illness are often arrested for petty crimes, utilize emergency department services at a higher rate, undergo expensive and unnecessary multiple hospitalizations, and/or become homeless as a result of their mental illness. This is a very expensive revolving door that is hurtful to these individuals and the community. The amendments proposed in this bill are part of the solution to fix this broken system and close the revolving door.

ACT provides a process whereby the Family Court can order a person with serious mental illness, who is not complying with treatment, to accept treatment in the community – thereby preventing them from bouncing in and out of the hospital, jail, and streets. In other states, this approach has resulted in a reduction in hospitalization and incarceration rates, and patients with violent histories have become significantly less likely to commit crime. SB961 will strengthen and streamline our current ACT law, and ease its implementation in our community. In particular, the appointment of a Guardian Ad Litem (GAL) affords greater protections for the subject of the petition because the GAL is specifically dedicated to represent the subject's best personal interests – This is key because the subject of the petition usually cannot represent him or herself adequately.

Once again, PHOCUSED strongly urges your support of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at [admin@phocused-hawaii.org](mailto:admin@phocused-hawaii.org).

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Connie Mitchell	IHS, The Institute for Human Services, Inc.	Support	Yes

Comments: IHS, The Institute for Human Services, strongly supports the amendments to the Assisted Community Treatment Statute which allows greater access to treatment for those persons impaired by their disease process from understanding the benefits of treatment and continue to be hospitalized and detained in jail due to their behaviors while not adhering to treatment prescribed by a qualified mental health professional. We serve many of these persons through our homeless outreach and also those who are currently incarcerated or hospitalized with a diagnosed mental illness. The amendments clarify roles of the parties involved in the petitioning process and make available a guardian who is able to act in the best interests of the client. Thank you

Measure: SB 961, SD2, HD1, Relating to Mental Health  
Committee: House Judiciary Committee

Date and Time: March 24, 2015, 2:00 p.m.

Organization: Waipahu Aloha Clubhouse Advisory Board  
Testifier: Mary Pat Waterhouse, Advisory Board Member

Chair Rhoads and Members of the Committee:

I strongly support SB 961 SB2 HD1.

The original law was passed over 12 years ago but it wasn't used because of major problems. To correct these flaws, major changes were made to the law 2 years ago. The purpose of the law that passed in 2013 and the one that we are trying to pass today have the same objectives, that is to stabilize psychotic, seriously mentally ill and/or substance abuse individuals who cycle between the streets, hospitals and/or correctional facilities and to permit the Family Court request that these individuals receive treatment in the community. This process to support our at risk community members has been validated by the findings in 9 studies that have shown significant decreases of between a 50% to 75% in the number of days these individuals are hospitalized, incarcerated, and are homeless.

The changes that have been made to the bill this year have been in response to a case that was presented at family court last year and in response to working with the various stakeholders during this session and previously.

Thank you for the opportunity to testify.

## Helping Hawai'i Live Well

March 23, 2015

**TO:** Rep Karl Rhoads, Chair, and Rep Joy Buenaventura, Vice Chair, and members of the Committee on Judiciary  
**FR:** Marya Grambs, Executive Director, Mental Health America of Hawaii  
**RE:** SB961, SD2, HD1, Relating to Mental Health Treatment

### IN STRONG SUPPORT

Mental Health America of Hawaii stands in strong support of this bill for Assisted Community Treatment. A product of collaboration between many entities with different perspectives and interests, this bill modifying Act 221 represents further clarifications designed to build in protections for the subject of the petitions and to smooth out problems that have arisen in the Court process. Some concerns in opposition to this bill have been raised, however, and we are addressing them as follows:

Concern Raised	Response
"Anyone can petition to have someone forced into mental health "treatment", even someone without any professional mental health condition"	The fact that anyone can petition means that anyone who cares about someone (family member, for example) can, at their own expense, choose to initiate a petition to the court for mental health treatment for someone (the subject of the petition) because they see that this person is not getting treatment but is cycling in and out of hospitals and/or jail and is not living safely. However, that person must be evaluated by a psychiatrist prior to the petition and the assessment submitted as part of the petition. The psychiatrist must attest that the subject of the petition meets all 7 of the criteria, which are very stringent.
"The subject can be "deemed" worthy of this treatment and served by court via postal mail"	Service is a court process which a Judge presides over and service on the subject must be <u>in person</u> . Others involved may be served by mail. The way a person is "deemed" eligible to be placed under assisted community treatment is by a <u>judge</u> agreeing that the 7 specific criteria have been met through assessment by a psychiatrist.
"The subject does <u>NOT</u> have to be <u>present in court</u> and can be represented by a Guardian Ad Litem (GAL) who may be biased."	Because of the nature of their severe mental illness, many of the people that this order pertains to are not able or willing to come to court. When the subject of any legal petition is not present in court, they may be forfeiting their right to defend themselves. Because of that, the <u>judge</u> may appoint a GAL to represent the subject's best interests. The GAL is not known to the persons who file the petition. The point is to have an unbiased party acting on behalf of the subject, in their best interest.

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“...there are no state safeguards to check and balance private organizations that serve houseless persons to prevent abuse of power and victimization of clients. None whatsoever.”

The subject of the petition is provided due process by the option to accept the services of a public defender if he/she cannot afford their own counsel. The nature of the bill is such that strict criteria for Assisted Community Treatment eligibility must first be met in the eyes of the court before the petition will be granted by the judge. This is a bill that was passed to promote treatment for those persons who have been hospitalized, have demonstrated repeated inability to care for themselves in the community, and have been a threat to self/others and so may have been incarcerated as well. It is not only for homeless/houseless persons. It is for any person who meets these criteria. Assisted Community Treatment is designed specifically to avoid further victimization through incarceration, criminalization, and hospitalization, of those persons described above.

Thank you for the opportunity to provide this testimony.